

## NH Prescription Drug Affordability Board

### In-person / Remote Hybrid Meeting

August 24 2021, 10:00 AM

**NOTE:** This meeting was recorded and a recording of the entire meeting is available at:

<https://www.dhhs.nh.gov/ombp/medicaid/nhpdab/previous-meetings.htm>

**CALL TO ORDER:** Representative Gary Merchant, Chair, opened the meeting.

**ATTENDING:** Representative Gary Merchant, Senator Sharon Carson, Representative William Marsh, Senator Tom Sherman. Via Zoom Representative James Murphy, Todd Fahey, Staci Hermann.

A quorum was established.

**ABSENT:** Senator Cindy Rosenwald.

**INTRODUCTIONS:** Representative Gary Merchant introduced everyone and appointed alternate Representative Marsh as voting member for this meeting.

**AGENDA REVIEW:** Representative Gary Merchant reviewed the agenda with the Board.

**REVIEW AND APPROVE JUNE MINUTES:** Motion to accept minutes of the June meeting made by Representative Marsh; Senator Sherman seconded. Motion passed.

**BOARD EXECUTIVE DIRECTOR UPDATE:** Laurie Spring, of the Department of Health and Human Services, Human Resources, reviewed the supplemental job description (SJD) based on the already established classification of the Executive Agency Manager, a labor grade 35. One of the potential challenges is the question of what would be the future positions reporting to this director; where they would come from, as the positions don't currently exist. Laurie anticipates the Division of Personnel (DOP) maybe having questions about that since they have oversight with concerning classified positions. It is written consistently with other Board Executive Directors throughout the state. The minimum qualifications are set in the classified system, so candidates would have to meet these. Representative Merchant mentioned that it is required in the RSA that it is classified, but that after hire, it may be able to be made unclassified. Senator Carson made it clear that you have to tell the applicants explicitly that this may occur. Laurie made it clear that the job brief can be revisited/revised if unable to find an applicant, initially. She also touched upon the reporting structure. Classified needs to report to another position within classified service. Laurie recommended someone within the department, specifically in the Division of Medicaid Services, such as the Director or Deputy Director. Senator Carson mentioned the possibility of someone at the Department of Administrative Services. Laurie mentioned it would be easiest to stick with Medicaid Services, as that is who the Board is administratively attached to, and there may be some financial considerations. Senator Carson asked if Representative Merchant can be updated as to the progress in the hiring process, to which Laurie agreed. As far as the process of selecting candidates, Senator Carson reminded the Board that discussions regarding applications would need to be in a non-public session, as in a subcommittee, as they contain personal information. Senator Sherman moved to form a subcommittee for the purpose of choosing an executive director, with Representative Merchant as the chair and Senator Carson and Todd Fahey as members. Representative William Marsh seconded. Motion passed. Senator Sherman moved to accept the job description as described, Senator Carson seconded. Motion passed.

**LEGISLATION FOR 2022, UNCLASSIFIED POSITION AND CONFLICT OF INTEREST:** Senator Carson suggest it starts in the House. Senator Carson reviewed correspondences between herself and Senator Ned Gordon regarding recommendations for making changes to the RSA. Senator Carson suggested that she can file the legislation; reminded the Board that it will have to be 2 different bills, as you cannot combine the unclassified one with the conflict of interest. Senator Sherman spoke to the idea that being a member the Board is not contingent upon being a legislator. Representative Merchant summarized the discussion by clarifying that the bill for the conflict of interest will go through the Senate and the unclassified vs. classified bill will be through the House.

**RULES UPDATE:** Todd Fahey and Attorney Rob Berry discussed that they have been given guidance for which to fill in the content of the Rules and expect to have it ready for review at the next Board meeting. Attorney Berry agreed to consult with Andrew Chalsma, DHHS, and Tyler Brannen, Insurance Department, in finalizing the Rules. Short discussion about how to continue with hybrid vs. in person meetings of the Board, as it is not really a legislative Board, so may not be bound to the same rules. Attorney Berry stated he would follow up with the Attorney General's office for their opinion on the matter. Whether the public can participate virtually is the main question.

**OVERVIEW PHARMACY SUPPLY CHAIN:** Staci Hermann presented a Powerpoint to explain the complexity of the pharmaceutical supply chain. She discussed the regulation of the distribution of pharmaceuticals. She discussed the definition and interpretation of the word "cost" when associated with pharmaceuticals. She discussed cost vs. affordability when in relation to brand vs. generic and how it affects the pharmaceutical companies and the members, taking into consideration copay assistance and rebates. Staci used the cost of insulin as an example. Full Board discussion about the Pharmacy Benefit Managers (PBMs) and how they are the only aspect in the chain that is not regulated. They discussed how there are other states that have started regulation around PBMs and Staci agreed to supply the Board with the related documents and research. Staci discussed some pending lawsuits in other states in regards to the lack of transparency with PBMs, and how some have discovered a large overpayment of the state to the PBMs. The full slide presentation is available via the website link listed above.

**SET DATES AND KEY TOPICS FOR FUTURE MEETINGS:** Tuesday, October 26, 2021, 1:00 pm and November 30, 1:00 pm.

**PUBLIC COMMENTS:** Holly Stevens, New Futures asked about the advisory council, reporting requirements, fee structures for the Board, policies and procedures, registration for PBMs, and annual report due 11/1/21. Representative Merchant responded by highlighting the need for an Executive Director. Senator Carson stated that once the Rules have been finalized, many of Holly's concerns will be addressed. She also reminded of the issue with COVID, and causing a delay in meeting requirements. She also stressed the importance of acquiring the Executive Director, and how it will help wrap these things up. Senator Sherman suggested a vote on the due date of the report at the October meeting.

**ADJOURNMENT:** Motion to adjourn made by Representative Senator Sherman; motion seconded by Representative Marsh. Motion passed with Representative James Murphy, Representative William Marsh, Staci Hermann, Todd Fahey, Senator Tom Sherman, Representative Gary Merchant and Senator Sharon Carson all in favor.

Respectfully submitted:

Todd C. Fahey, Clerk

Nancy T. Plourde, Recording Secretary